

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

LESTER EUGENE SILER, et al.)
)
 Plaintiffs,)
)
)
 v.) No. 3:05-cv-341
) Edgar/Guyton
)
)
 GERALD DAVID WEBBER, et al.)
)
 Defendants.)

**Plaintiffs' Supplemental Submission In Support of
Plaintiffs Pending Objections To the Magistrate-Judge's
February 12, 2008 Order Staying Discovery Because of
McClellan and Scott's Qualified Immunity Claims**

Plaintiffs have pending objections to the Magistrate-Judge's February 12, 2008 Order staying discovery pending resolution of Defendant McClellan and Scott's claims of qualified immunity and to modify that Order to permit discovery to proceed or at a minimum to permit discovery to proceed as to the claims of qualified immunity.

Plaintiffs' proffer that on March 27, 2008 Defendant's Campbell County, McClellan and Scott's motions for protective orders from discovery in the state action of *Siler v. Campbell County et al* were denied.¹ Those

¹ It will take some time for the order to be prepared, circulated and entered. Plaintiffs make this proffer to urge this Court to modify the Magistrate-Judge's order of

Defendants are required to respond to Plaintiffs' written discovery request by March 31, 2008. McClellan and Scott are to be deposed on April 1, 2008.

Discovery in the State action is also proceeding as to other defendants throughout April and into May.

As Plaintiffs previously argued continuing the stay of discovery in federal court pending resolution of Defendant McClellan and Scott's claim of qualified immunity in their individual capacity on 42 U.S.C. § 1983 claims has no purpose where Plaintiffs are entitled to take their depositions and pursue discovery in a state action that does not contain 42 U.S.C. § 1983 claims. The February 12, 2008 stay does the opposite of what is dictated by Fed. R. Civ. P. 1 to construe federal discovery to secure "the just, speedy, and inexpensive determination" of this action.

Plaintiffs also rely on the answers to interrogatories and request to admit filed by Defendant Franklin in the state action on March 25, 2008 as attached and as quoted in Plaintiffs Supplemental filing of evidence in opposition to summary judgment. The Franklin answers are the nature of evidence Plaintiffs will develop through

February 12, 2008 to permit the federal discovery to take place with the ongoing discovery in state court.

federal discovery that is sufficient to deny McClellan and Scott's qualified immunity.

Having received Franklin's answers, it is now obvious why McClellan and Scott are attempting to expedite a ruling granting them qualified immunity. These answers also suggest a reason why Campbell County, McClellan and Scott are attempting to obtain favorable rulings on summary judgment before Plaintiffs can obtain additional evidence that these defendants know will be offered against them.

s/Herbert S. Moncier
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CERTIFICATE OF SERVICE

I hereby certify that on_____, 2008 a copy of the foregoing notice was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by U.S. Mail. Parties may access this filing through the Clerk's electronic filing system.

/s/ Herbert S. Moncier
Attorney for Plaintiffs